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MESSAGE

OF

GOVERNOR JOHNSTON,

ON RETURNING

THE APPORTIONMENT BILL TO THE LEGISLATURE,

WITH HIS OBJECTIONS:

TO WHICH ARE ATTACHED

TABLES, EXHIBITING THE NUMBER OF TAXABLES, RATIO OF REPRESENTATION, EXCESS AND DEFICIT, ASSESSMENT OF STATE TAXES, NUMBER OF SCHOLARS,

AND AMOUNT APPROPRIATED TO

THE COMMON SCHOOLS IN 1850.

HARRISBURG:

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THE GOVERNOR'S MESSAGE.

To the Senate and House of Representatives of the Commonwealth of Pennsylvania.

GENTLEMEN: The necessity for the present message is most sincerely regretted. The exercise of the negative power, vested in me by the Constitution, has been hitherto carefully avoided, under the impression that its frequent and constant use was well calculated to impair the Republican simplicity of a Representative Government. To unite with cordiality in measures sanctioned by the Legislature, affecting the welfare of the people, would at all times afford me more pleasure than the adoption of a different policy.

When, however, it becomes necessary, in my judgment, to preserve the integrity of the Constitution, and to protect the rights of my fellow citizens, I should feel that the trust reposed in me by the sovereign people, was unfaithfully discharged, were I under any circumstances to shrink from just responsibility, or by any action of the Executive Department, to permit the well established and revered principles of a Representative Republican Government to be endangered, outraged, or destroyed.

In a government founded on the popular will, it is scarcely necessary to remark that the very basis of its superstructure is the right of the citizen to an equal voice and influence, at the ballot box. The purity and equality of the elective franchise, and the equitable distribution of the favors and burthens of the State, constitute the life-giving principles—the spirit and strength of such government. The destruction of either may well be deemed an act of hostility to the best interests of society, and to the permanency of our institutions.

In all ages and governments among civilized men, the infringement of the right of representation has caused the sturdiest and most justifiable opposition. Republican government ceases to exist whenever these cherished rights are disregarded. In recognition of these admitted principles, the Constitution of this Commonwealth has pledged the constituted authorities to their defence and preservation.

Impressed with the correctness of these truths, I have felt it my duty to withhold my approval of bill No. 330 of the General Assembly, entitled "an Act to fix the number of Senators and Representatives, and form the State into districts, in pursuance of the provisions of the Constitution."

It is due to the Legislature and the people, that I should briefly state some of the reasons that have influenced me in this determination.

The bill is, in my judgment, unconstitutional, unjust and defective in its details.

The Constitution requires that in each "term of "seven years an enumeration of the taxable inhabitants shall be made in such manner as shall be "directed by law. That the number of Representatives shall, at the several periods of making "such enumeration, be fixed by the Legislature, "and apportioned among the city of Philadelphia "and the several counties, according to the number of taxable inhabitants *in each*—and shall "never be less than sixty, nor greater than one "hundred. Each county shall have at least, one "representative, but no county hereafter erected "shall be entitled to a separate representation, "until a sufficient number of taxable inhabitants "shall be contained within it, to entitle them to "one representative, agreeably to the ratio which "shall then be established."

It further provides "that the number of Sena- "tors shall, at the periods of making the enumera- "tion before mentioned, be fixed by the Legisla- "ture, and apportioned among the districts formed "as hereinafter directed, according to the number "of taxable inhabitants in each, and shall never "be less than one-fourth, nor greater than one- "third of the number of Representatives."

In its further provisions are found limitations of the power of the Legislature in the formation of Senatorial districts.

These provisions of the Constitution plainly indicate the manner in which the apportionment

shall be made, and in direct terms declare as the basis of representation, the taxable inhabitants of *each county* :—they require the Legislature to fix the number of the members of the House of Representatives, and to determine the ratio or number of taxable inhabitants for each member, according to Septennial enumeration. Any departure from this standard or ratio must be a breach of the organic law which guarantees to *each* county an equal representation, according to the number of taxable inhabitants therein.

The ratio fixed in the bill is 4,865 taxable inhabitants for one member of the House of Representatives, and 14,743 taxable inhabitants for one Senator.

In the bill under consideration are found the following palpable objections, and violations of the ratio fixed upon by its own provisions.

1st. The county of Fayette contains 7,611 taxable inhabitants, and is allowed *two* memders, being 2,119 taxables less than the number required by the ratio fixed by the Legislature.

The county of Dauphin, with 7,683 taxable inhabitants, is allowed *one* member, with an unrepresented surplus of 2,818. Thus Dauphin county, with a larger population, more taxable inhabitants, and whose citizens bear a much larger proportion of the pubtic burthens, than the county of Fayette, has only *one-half* the influence and weight in the House of Representatives.

2d. Allegheny county, the great commercial and manufacturing district of Western Pennsylvania, with 28,547 taxable inhabitants, is allowed five members, being *one* member to every 5,709 taxable inhabitants, while the adjoining county of Westmoreland, with less variety of interests to protect, is allowed *three* members on a tax list of 11,618—being one member to every 3,872 taxables. In other words, to 5,709 taxables in Allegheny county is given the right to elect a member of the House of Representatives, while in Westmoreland county 3,872 taxables have the same political influence. The unrepresented excess in Allegheny county, by the provisions of this bill, is 4,222 taxables, being 350 more taxables than the ratio fixed for Westmoreland county. I cannot believe that the honest yeomenry of Westmoreland county would desire this undue influence, in the assessment of taxes, over their fellow citizens of an adjoining county.

3d. Schuylkill county, whose citizens are largely engaged in mining, manufacturing and agricultural pursuits, has 12,867 taxables, and is allowed *two* members, being 6,433 taxables to a member, while to the adjacent county of Berks, with 16,262 taxables, is given *four* members, being 4,065 taxables to a member. Upon what principle of equity this discrimination is made, I cannot perceive. Here we find 4,065 taxables in one county possessing the same authority to elect a member that is given to 6,433 taxables in an adjoining county.

4th. The county of Westmoreland has, as stated, *three* members, with 11,618 taxables—Schuylkill with 12,867, has *two* members—and Lawrence and Butler with 11,915, have *two* members. Here is exhibited the astounding fact that in two districts containing *each a larger* number of taxables than Westmoreland, there is given to *each a less* number of representatives. Berks has 16,262 taxables, and is allowed four members, whilst Schuylkill and Butler and Lawrence with 24,782 taxables are allowed *no greater number*. If the Constitution can be construed to inflict such flagrant wrongs, the liberties of the people are no longer secure unner its provisions.

5th. The county of Crawford, with 8,130 taxables, is allowed *two* members, while the adjoining county of Erie, with 8,434 taxables, is allowed only *one* member.

6th. The counties of Allegheny, Butler, Lawrence, Dauphin, Erie and Schuylkill, with 69,446 taxable inhabitants, are allowed *eleven* members, while the counties of Columbia, Sullivan, Fayette, Westmoreland, York and Mifflin, with 42,950 taxables, are allowed *eleven* members.

Here is exhibited an instance wherein the voice and influence of 26,496 of the freemen of the State are unheard and unfelt in the popular branch of the Legislature. By the ratio fixed in the bill, the first named counties would be entitled to fourteen members, and the last named counties to less than nine members.

7th. The counties of Adams, Allegheny, Butler, Lawrence, Beaver, Dauphin, Delaware, Erie, Indiana, Lebanon, Philadelphia city, Somerset, Union and Lancaster, with an aggregate of 140,294 taxables, are allowed *twenty-five* members; whilst the counties of Columbia, Sullivan, Crawford, Fayette, Monroe, Wayne, Pike, Mercer, Venango, Warren, Mifflin, Montgomery, Susquehanna, Wyoming, Westmoreland, York, Tioga, Elk, McKean, and Clearfield, with an aggregate of 105,280 taxables are given the *same number*. In the assessment of taxes, and the appropriation of the public monies, the wrong inflicted on these partially disfranchised counties is readily perceivable.

The instances of inequality and injustice, in the bill, similar to those mentioned, are so numerous that a further examination and expose of them would seem a waste of time. In this inequality of representation, and disregard of the ratio fixed by the Legislature, there is a violation of the spirit and letter of the Constitution.

The district composed of the counties of Clearfield, McKean and Elk, presents an instance wherein counties erected since the adoption of the Constitution, are given a separate represen-

tation on a less number of taxables than the ratio number fixed by the Legislature.

The formation of representative districts by the union unnecessarily of several counties, is well calculated to remove the just responsibility that the representative owes to the constituent, and to prevent the popular voice of some of the counties being heard in the Legislature. This anti-republican feature ought to be avoided. The district composed of Armstrong, Clarion and Jefferson, exhibits the following facts: the representative ratio is 4,865. The county of Clarion has 5,087 taxables, entitling it to a member with a very small excess. The counties of Armstrong and Jefferson have 8,708 taxables, being proportionably a much larger number of taxables for two mmbers, than is required by this bill for the counties of Fayette, Westmoreland, Berks or Crawford. The interests of these counties may be similar, and to that extent no wrong is perpetrated; but in the event that either county should have separate or conflicting local interests, the rights and wishes thereof must not only be unheard but disregarded. The same remarks apply to the districts composed of Cumberland, Perry and Juniata; and Mercer, Venango and Warren.

In the arrangement of the Senatorial districts, the same disregard of the ratio fixed by the bill, and of the rights of the taxable inhabitants, is exhibited.

1st. To the district composed of the counties of Tioga, Elk, McKean and Potter, with 8,673 taxables, is given one Senator, while to the district composed of the county of Lancaster, with 22,843 taxables, is given one Senator. The district first named, falls short of the ratio fixed by the Legislature 6,070, whilst the last named district exceeds the ratio 8,100 taxables. Lancaster county, with 14,171 taxables more than the counties first named, is allowed no more influence on the floor of the Senate.

2nd. The counties of Lancaster, Chester and Delaware are allowed two Senators; the taxables therein are 42,880, thus requiring 21,440 taxables to elect a Senator; whilst the counties of Tioga, Potter, McKean, Elk and Erie, are allowed two Senators, with 17,107 taxables, thus requiring only 8,553 taxables in these counties to elect a Senator.

3d. The counties of Crawford, Mercer, Venango, Warren and Jefferson are united and allowed two Senators, although the number of their taxables only exceeds that of the county of Lancaster 2000, and falls short of the taxables of Lancaster, Chester and Delaware 18,029; a difference and inequality greater than the ratio fixed by the Legislaure for a Senator. The number of taxables in the 18th, 19th and 20th districts is 41,958—to these districts this bill gives *four* Senators, while to the 4th and 7th district, with 42,880 taxables, is given only *two* Senators.

It is not perceived upon what principle of propriety the system of double districts is adopted. In the formation of the 19th district, which largely lacks the number of taxables required by the ratio, for two Senators, the county of Jefferson, with 2622 taxables, is included—while the county of Clarion, with 5087 taxables, and more eligibly located as contiguous and adjoining territory, is rejected. From this fact it is manifest, that this double district was created with no view of representing fractions, or approximating to the ratio fixed by the bill. It may well be deemed, an act of hasty and improvident legislation. The counties of Crawford and Erie; of Crawford, Venango and Warren; of Mercer, Venango and Clarion; of Erie, Warren and Venango, would all appear well located for single districts. The transposition of the counties of Clarion and Jefferson from the districts formed by the present bill, would make both districts approach much nearer the ratio adopted by the legislature, provided this system of double districts cannot be avoided. The peculiar local interests and number of taxables in the counties embraced in the 5th and 24th districts, would not appear to demand the combinations made by this bill, and which are so likely to remove the direct and just responsibility of the representative to his constituents.

The 4th district is formed of Chester and Delaware counties. The county of Chester alone is entitled by the member of her taxables according to the ratio fixed, to a Senator, yet the county of Delaware, with 5267 taxables, is unnecessarily added to form said district, whilst the county of Montgomery, adjoining to Delaware, with less than the requisite number of taxables, is allowed a Senator.

The counties composing the 2d, 4th, 7th, 9th, 13th, 16th, 17th, 21st, 24th, 25th and 26th districts, contain 243,677 taxable inhabitants, being more than the one-half of the taxables in the whole State, and are allowed by this bill 14 Senators, whilst the remaining districts, containing 243,052 taxables, or less than one half the taxables in the Commonwealth, are allowed 19 Senators. This result exhibits a wrong that cannot be sanctioned by my co-operation.

I have caused to be prepared, and invite attention to the tabular statement annexed to this message. It will furnish in a succinct form, an analysis of the bill herewith returned.

I have heretofore urged upon the Legislature the propriety of giving to important public measures early attention. I regret that the duty of apportioning the State has been delayed to so late an hour of the session, thereby precluding that consideration by a co-ordinate branch of the go-

vernment which its importance demands, and which the present bill convinces me it did not receive at the hands of the Legislature. With the sincere desire of expediting your labors, by an early return of this bill, I have devoted my time to its consideration since its presentation to me for examination. I cannot believe that the representatives of the people, or any of them, would designedly inflict wrong upon a part of their fellow citizens.

I feel that the spirit of justice and fair dealing, that so largly marks the character of our common constituency would frown indignantly upon all attempts to disfranchise any portion of the citizens. I know that the people will denounce any and every encroachment, as they have always heretofore done, that may be contemplated against the liberty and equal rights of the citizen.

The bill is returned to the House of Representatives, in which it originated.

WM. F. JOHNSTON.

EXECUTIVE CHAMBER,
Harrisburg, April 9th, 1850.

TABLE:

Showing the number of Senators in each County or District.—The number of Taxables.—The ratio of Taxables required.—The excess or deficit.—Amount of State Taxes assessed.—Amount of appropriations for Common Schools in 1850 ; *and the number of Scholars.*

DISTRICTS.	No. of Senators.	No. of taxables required.	No. of taxables.	Excess over the number requir'd.	Deficiency in the number requir'd.	Am't State Tax assessed 1848.	No. of Scholars.	Am't of School Appropriation for 1850.
1. Philadelphia city,	2	29,486	22,730		6,756	$407,909.60	*	$26,395.80
2. Philadelphia county,	3	44,229	54,554	10,325				
3. Montgomery,	1	14,743	13,516		1,227	48,556.89	7,127	5,347.63
4. Chester and Delaware,	1	do.	20,036	5,293		90,379.42	16,952	7,579.26
5. Berks and Schuylkill,	2	29,486	29,129		357	90,274.65	9,904	12,023.25
6. Bucks,	1	14,743	13,151		1,592	50,905,46	7,981	5,155.75
7. Lancaster,	1	do.	22,844	8,101		88,573.97	16,583	8,418.94
8. Lebanon and Dauphin,	1	do.	13,391		1,352	50,790.67	11,650	5,322.31
9. Northampton and Lehigh,	1	do.	16,194	1,451		64,877.55	12,088	6,313.59
10. Carbon, Monroe, Pike & Wayne,	1	do.	12,100		2,643	14,845·79	9,549	4,483.76
11. Adams and Franklin,	1	do.	14,005		738	49,155.88	16,279	6,113.10
12. York,	1	do.	13,060		1,683	30,666.57	6,615	5,774.03
13. Cumberland, Perry and Juniata,	1	do.	15,121	378		37,847.17	18,091	6,584.19
14. Huntingdon, Union and Mifflin,	1	do.	13,831		1,362	46,348.68	13,003	6,095.47
15. Lycom., Clin., North'd & Sullivan,	1	do.	13,158		1,585	30,170.25	12,558	5,421.84
16. Luzerne and Columbia,	1	do.	17,619	2,876		27,865.64	16,131	7,243.47
17. Brad'd, Susque'a, and Wyoming,	1	do.	16,827	2,084		21,016.00	21,538	6,658.81
18. Tioga, Potter, M'Kean and Elk,	1	do.	8,673		6,070	7,630.83	10,299	3,253.76
19. Venango, Crawford, Mercer, Warren and Jefferson,	2	29,486	24,851		4,635	30,770.34	31,369	10,880.99
20. Erie,	1	14,743	8,434		6,309	10,879.72	10,323	3,219.73
21. Butler, Beaver and Lawrence,	1	do	17,658	2,915		20,711.48	15,634	5,781.00
22. Allegheny,	2	29,486	28,547		939	55,780.58	16,450	9,475.51
23. Washington and Greene,	1	14,743	14,476		267	33,163.59	11,302	5,799.86
24. Westmoreland, Somerset, Bedford, and Fayette,	2	29,486	30,439	953		49,894.70	35,281	12,247.11
25. Armstrong, Indiana and Clarion,	1	14,743	16,703	1,960		19,088.51	17,427	6,902.76
26. Centre, Clearfield, Cambria, and Blair,	1	do·	15,684	941		32,017.61	17,417	6,477.84

* No returns made—none required by law.

TABLE:

Showing the number of Representatives in each County or District.—The number of Taxables.—The ratio of Taxables required.—The excess or deficit.—Amount of State Taxes assessed.—Amount of appropriations for Common Schools in 1850; *and the number of Scholars.*

DISTRICTS.	No. Represent's.	No. Taxables required.	Number of Taxables.	Excess.	Deficit.	Amount of State Tax Assessed.	Number of Scholars.	Am't of School Appropriations for 1850.
Adams,	1	4,865	5,619	754		$12,464.05	6,606	$2,446.47
Allegheny,	5	24,325	28,547	4,222		55,780.58	16,450	9,475.51
Bedford and Cambria,	2	9,730	9,928	198		10,126.13	11,895	4,125.83
Berks,	4	19,460	16,262		3,200	66,686.48	4,072	6,824.45
Bucks,	3	14,595	13,151		1,444	50,905.46	7,981	5,155.75
Butler and Lawrence,	2	9,730	11,915	2,185		7,437.35	6,747	2,784.72
Blair and Huntingdon,	2	9,730	9,766	36		28,345.87	9,867	4,105.03
Bradford,	2	9,730	8,569		1,161	11,023.05	10,748	3,418.99
Beaver,	1	4,865	5,743	878		13,274.13	8,887	2,996.28
Chester,	3	14,595	14,769	174		65,649.51	13,119	5,537.05
Cumberland, Perry and Juniata,	3	14,595	15,121	526		37,847.17	18,091	6,504.19
Centre,	1	4,865	4,946	81		14,539.65	5,536	2,068.86
Clearfield, Elk and McKean,	1	4,865	4,729		136	4,777.89	4,473	1,814.25
Clarion, Armstrong and Jefferson,	3	14,595	13,795		800	13,399.45	14,247	5,547.19
Columbia and Sullivan,	2	9,730	7,490		2,240	14,906.33	6,595	3,013.70
Crawford,	2	9,730	8,130		1,600	8,257.92	11,025	3,261.14
Dauphin,	1	4,865	7,683	2,878		27,451.99	8,213	2,579.31
Delaware,	1	4,865	5,267	402		24,729.91	3,833	2,042.21
Erie,	1	4,865	8,434	3,569		10,879.82	10,323	3,219.73
Fayette,	2	9,730	7,611		2,119	15,127.80	7,284	3,022.93
Franklin,	2	9,730	8,386		1,344	35,207.46	9,573	3,666.63
Indiana,	1	4,865	5,530	665		7,798.18	6,566	2,371.85
Lycoming, Clinton and Potter,	2	9,730	9,080		650	10,003.45	8,723	3,726.49
Lebanon,	1	4,865	5,708	843		23,338,68	3,437	2,742.90
Lancaster,	5	24,325	22,844		1,481	88,573.97	16,583	8,418.94
Luzerne,	2	9,730	10,898	1,168		13.654.17	9,279	4,483.76
Lehigh and Carbon,	2	9,730	11,028	1,298		30,329.91	6,215	4,123.78
Monroe, Pike and Wayne,	2	9,730	8,358		1,372	9,747.23	7,474	3,172.99
Mercer, Venango and Warren,	3	14,595	14,099		596	20,403.30	16,958	6,673.57
Mifflin,	1	4,865	3,172		1,693	12,531.54	3,208	1,352.18
Montgomery,	3	14,595	13,516		1,079	48,556.89	7,127	5,347.63
Northampton,	2	9,730	8,908		822	39,646.20	7,957	3,500.58
Northumberland,	1	4,865	4,655		210	13,227.95	4,552	1,827.78
Philadelphia city,	4	19,460	22,730	3,270		407,909.60	*	26,395.80
Philadelphia, county,	11	53,515	54,554	1,039				
Somerset,	1	4,865	4,924	59		7,919.67	5,829	2,044,67
Schuylkill,	2	9,730	12,867	3,137		23,588.17	5,842	5,198.80
Susquehanna and Wyoming,	2	9,730	8,258		1,472	9,992.95	10,790	3,239.82
Tioga,	1	4,865	5,237	372		3,447.41	7,157	2,017.20
Washington and Greene,	3	14,595	14,476		119	33,163.59	11,302	5,799.86
Westmoreland,	3	14,595	11,618		2,977	19,146.44	12,428	4,450.96
Union,	1	4,865	5,350	485		18,123.89	4,893	2,535.85
York,	3	14,595	13,060		1,535	30,666.57	6,615	5,774.03

* No returns made—none required by law.